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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jarrod Leigh Dorney

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT

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3679

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,602	Applicant(s) DORNEY ET AL.	
	Examiner MICHAEL P. FERGUSON	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/12/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 38, 43, 45 and 48 are objected to because of the following informalities:

In claim 38 (line 16) "transitions" should recite --translates--.

In claim 43 (line 1) "head" should recite --head portion--.

In claim 45 (line 1) "thread formed" should recite --threaded portion formed--.

In claim 48 (line 2) "head and positioned between said head" should recite --head portion and positioned between said head portion--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 38-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 38 (lines 1-14) recites "An adjustable clamping assembly for joining a first object and a second object, said first object having a first channel... and said second object having a second channel... said clamping assembly comprising: a self-aligning coupling deice... that is positioned within at least one of said first channel and said second channel... wherein the distance between said opposing lateral surfaces defines a width that is less than said first width and said second width; an engagement

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assembly that is positioned within a first cutaway region of said first channel". It is unclear as to whether the first and second objects having first and second channels, respectively, are positively claimed as elements of the claimed assembly, or whether such objects are only recited as intended use. For the purpose of examining the application, it is assumed that Applicant intended to positively claim the first and second objects as claimed elements of the claimed invention.

Claim 38 (lines 18-25) recites "wherein said head portion has a first position of use wherein said opposing lateral surfaces are generally aligned with sidewalls of at least one of said first channel and said second channel... wherein said head portion has a second position of use such that said opposing lateral surfaces are positioned at an angle relative to said side walls of at least one of said first channel and said second channel". It is unclear as to what element of the claimed assembly is actuated, or which elements interact or interengage, in order to produce such change in use positions. It is unclear as to structurally how actuation of the gear member engages the elongate connecting portion in order to change the use position of the head portion.

Claim 38 (lines 16-17) recites "wherein actuation of said gear member transitions said elongate connecting member within at least one of said first channel and said second channel". Claim 38 (lines 26-28) recites "wherein actuation of said gear member pulls said head portion... such that said first lug abuts a side wall of said second cutaway portion which pulls said first object and said second object together to interconnect the same". It is unclear as to how the gear member is rotated such that the elongate connecting portion may be moved in both longitudinal directions within the first

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and second channels. It is unclear as to how the elongate connecting portion is translated within the first channel and the gear member such that the elongate connecting portion may be moved in both longitudinal directions within the first and second channels without the elongate connection portion interfering with the distal end of the first channel, which is opposite the opening of the first channel.

Allowable Subject Matter

4. Claims 38-54 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
5. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 38, as best understood, Dannath (DE 90 10 431) in view of Popovski (US 6,764,245) and Gogarty (US 5,199,836) disclose the claimed adjustable clamping assembly with the exception of wherein the first and second objects are positioned such that the first channel and the second channel and the openings thereof are aligned, the first channel having a first cutaway region disposed at an intermediate location of the first channel distal the opening of the first channel and defining front and rear portions of the first channel; wherein the head portion has a first position of use wherein the opposing lateral surfaces are generally aligned with sidewalls of at least one of the first channel and the second channel such that the head portion is prevented from rotating as the gear member is rotated in a first direction to translate the elongate connecting portion within the first channel and the second channel; wherein the head portion has a second position of use wherein the gear member is rotated in a second direction to

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rotate the head portion such that the opposing lateral surfaces are positioned at an angle relative to the side walls of at least one of the first channel and the second channel and such that the at least a first lug is positioned within a second cutaway portion of the second channel; and wherein actuation of the gear member in the second direction translates the elongate connecting portion such that the threaded portion of the elongated connecting portion extends into the rear portion of the first channel and such that the head portion, which is oriented in the second position of use, moves longitudinally toward the first object, pulling the first and the second objects together.

There is no teaching or suggestion, absent the applicant's own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the assembly disclosed by Dannath in view of Popovski and Gogarty to have the above mentioned elemental features. Furthermore, such modifications would yield unexpected and unpredictable results.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The newly added limitations of “wherein said head portion has a first position of use wherein said opposing lateral surfaces are generally aligned with sidewalls of at least one of said first channel and said second channel... wherein said head portion has a second position of use such that said opposing lateral surfaces are positioned at an angle relative to said side walls of at least one of said first channel and said second channel” (lines 18-25), “wherein actuation of said gear member transitions said elongate connecting member within at least one of said first channel and said

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second channel" (lines 16-17), and "wherein actuation of said gear member pulls said head portion... such that said first lug abuts a side wall of said second cutaway portion which pulls said first object and said second object together to interconnect the same" (lines 26-28) in claim 38 necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL P. FERGUSON whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF
07/31/10

/Michael P. Ferguson/
Primary Examiner, Art Unit 3679